

This document is intended as an informational guide only. The regulations contained in this document were excerpted from the official code on file with the Lt. Governor. There may be errors or omissions that have not been identified and changed that occurred since this document was updated. To be certain of the current laws, please refer to the official code.

17 AAC 45.055(b) is amended to read:

(b) Before operating a commercial fueling service that performs any function on an airport, a person must obtain a lease, permit, or concession that authorizes commercial fueling services. In addition to the rent or other fee charged under the lease, permit, or concession that authorizes a commercial fueling service at the airport, the lessee, permittee, or concessionaire must pay to the department the fuel flowage fee established under **17 AAC 45.127(o)** [17 AAC 45.127(q)] on each gallon of fuel sold, delivered, or dispensed to which that fee applies.

(Eff. 3/28/2002, Register 161; am 11/23/2003, Register 168; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.090      AS 02.15.230  
AS 02.15.060      AS 02.15.220

17 AAC 45.110(d) is amended to read:

(d) A business activity permittee shall pay any annual business activity permit fee required under **17 AAC 45.127(p)** [17 AAC 45.127(r)] and any other applicable fee established under this chapter. (Eff. 3/28/2002, Register 161; am 11/23/2003, Register 168; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

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**Authority:** AS 02.15.020 AS 02.15.090 AS 02.15.230

AS 02.15.060 AS 02.15.220

17 AAC 45.127 is repealed and readopted to read:

**17 AAC 45.127. Rental and fee rates.** (a) Except as otherwise specified in this section, 17 AAC 45.205, or another applicable provision of this chapter, the department will charge and an airport user shall pay, the following annual rental rates in United States Dollars, for the stated use of airport land:

(1) beginning April 23, 2009 and ending December 31, 2009, the annual rental rates are as follows:

<u>Airport Type</u>	<u>Rate Per Square Foot</u>
Airports where the longest runway is under 5,000 feet long between thresholds and is	All Land Uses
unpaved and unlighted	\$0.051
unpaved and lighted	0.066
paved and unlighted	0.066

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paved and lighted 0.076

Airports where the longest  
runway is 5,000 feet or  
longer between thresholds  
and is

unpaved and unlighted \$0.076

unpaved and lighted 0.099

paved and unlighted 0.099

paved and lighted 0.114

(2) beginning January 1, 2010 and ending December 31, 2010, the annual  
rental rates are as follows:

<u>Airport Location</u>	<u>Rate Per Square Foot</u>
Airports where the longest	Aviation Land Uses
runway is under	Auxiliary and
5,000 feet long between	Nonaviation Land Uses
thresholds and is	

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unpaved and unlighted	\$0.051	\$0.055
unpaved and lighted	0.066	0.071
paved and unlighted	0.066	0.071
paved and lighted	0.076	0.082

Airports where the longest  
runway is 5,000 feet or  
longer between thresholds  
and is

unpaved and unlighted	\$0.076	\$0.082
unpaved and lighted	0.099	0.107
paved and unlighted	0.099	0.107
paved and lighted	0.114	0.123

(3) beginning January 1, 2011 and ending December 31, 2012, the annual  
rental rates are as follows:

<u>Airport Location</u>	<u>Rate Per Square Foot</u>	
Airports where the longest runway is under 5,000	Aviation Land Uses	Auxiliary and Nonaviation Land Uses

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feet long between

thresholds and is

unpaved and unlighted	\$0.053	\$0.059
unpaved and lighted	0.069	0.077
paved and unlighted	0.069	0.077
paved and lighted	0.079	0.089

Airports where the longest

runway is 5,000 feet or

longer between thresholds

and is

unpaved and unlighted	\$0.079	\$0.089
unpaved and lighted	0.103	0.115
paved and unlighted	0.103	0.115
paved and lighted	0.119	0.133

(4) beginning January 1, 2013 and ending December 31, 2014, the annual rental rates are as follows:

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<u>Airport Location</u>	<u>Rate Per Square Foot</u>	
Airports where the longest runway is under 5,000 feet long between thresholds and is	Aviation Land Uses	Auxiliary and Nonaviation Land Uses
unpaved and unlighted	\$0.055	\$0.063
unpaved and lighted	0.071	0.082
paved and unlighted	0.071	0.082
paved and lighted	0.082	0.094
Airports where the longest runway is 5,000 feet or longer between thresholds and is		
unpaved and unlighted	\$0.082	\$0.094
unpaved and lighted	0.107	0.122
paved and unlighted	0.107	0.122
paved and lighted	0.123	0.141

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(5) beginning January 1, 2015, the annual rental rates are as follows:

<u>Airport Location</u>	<u>Rate Per Square Foot</u>	
Airports where the longest runway is under 5,000 feet long between thresholds and is	Aviation Land Uses	Auxiliary and Nonaviation Land Uses
unpaved and unlighted	\$0.055	\$0.066
unpaved and lighted	0.071	0.086
paved and unlighted	0.071	0.086
paved and lighted	0.082	0.099
Airports where the longest runway is 5,000 feet or longer between thresholds and is		
unpaved and unlighted	\$0.082	\$0.099
unpaved and lighted	0.107	0.129

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paved and unlighted	0.107	0.129
paved and lighted	0.123	0.148

(b) Except as otherwise determined under (f) or (g) of this section, the following annual land rental rates apply to the following listed airports:

(1) beginning April 23, 2009 and ending December 31, 2009, the annual rental rates are as follows:

<u>Airport Location</u>	<u>Rate Per Square Foot</u>	
	Aviation Land Uses	Auxiliary and Nonaviation Land Uses
Barrow	\$0.114	\$0.164
Bethel	0.114	0.164
Bettles (including Bettles VOR Lake)	0.040	0.040
Big Lake	0.060	0.032
Cold Bay	0.080	0.048
Cordova	0.114	0.084
Dillingham	0.114	0.080
Galena	0.080	0.052



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Gulkana	0.068	0.024
Gustavus	0.114	0.050
Haines	0.080	0.076
Homer	0.114	0.100
Iliamna	0.066	0.060
King Salmon	0.114	0.112
Kodiak	0.114	0.164
Kotzebue	0.114	0.164
Nome	0.114	0.108
Petersburg	0.114	0.160
Sitka	0.114	0.164
St. Mary's	0.088	0.044
Tok	0.068	0.032
Unalaska	0.076	0.109
Valdez	0.114	0.030
Willow	0.060	0.032
Wrangell	0.114	0.120

(2) beginning January 1, 2010 and ending December 31, 2010, the annual rental rates are as follows:

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<u>Airport Location</u>	<u>Rate Per Square Foot</u>	
	Aviation Land Uses	Auxiliary and Nonaviation Land Uses
Barrow	\$0.114	\$0.177
Bethel	0.114	0.177
Bettles (including Bettles VOR Lake)	0.040	0.040
Big Lake	0.060	0.035
Cold Bay	0.080	0.048
Cordova	0.114	0.091
Dillingham	0.114	0.086
Galena	0.080	0.052
Gulkana	0.068	0.026
Gustavus	0.114	0.054
Haines	0.080	0.082
Homer	0.114	0.108
Iliamna	0.066	0.065
King Salmon	0.114	0.121
Kodiak	0.114	0.177

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Kotzebue	0.114	0.177
Nome	0.114	0.117
Petersburg	0.114	0.173
Sitka	0.114	0.177
St. Mary's	0.088	0.048
Tok	0.068	0.032
Unalaska	0.076	0.118
Valdez	0.114	0.032
Willow	0.060	0.035
Wrangell	0.114	0.130

(3) beginning January 1, 2011 and ending December 31, 2012, the annual rental rates are as follows:

<u>Airport Location</u>	<u>Rate Per Square Foot</u>	
	Aviation Land Uses	Auxiliary and Nonaviation Land Uses
Barrow	\$0.119	\$0.191
Bethel	0.119	0.191
Bettles (including Bettles VOR	0.042	0.040

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Lake)		
Big Lake	0.062	0.037
Cold Bay	0.080	0.048
Cordova	0.119	0.098
Dillingham	0.119	0.093
Galena	0.080	0.052
Gulkana	0.071	0.028
Gustavus	0.119	0.058
Haines	0.083	0.089
Homer	0.119	0.117
Iliamna	0.069	0.070
King Salmon	0.119	0.131
Kodiak	0.119	0.191
Kotzebue	0.119	0.191
Nome	0.119	0.126
Petersburg	0.119	0.187
Sitka	0.119	0.191
St. Mary's	0.092	0.051
Tok	0.068	0.032
Unalaska	0.079	0.127

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Valdez	0.119	0.035
Willow	0.062	0.037
Wrangell	0.119	0.140

(4) beginning January 1, 2013 and ending December 31, 2014, the annual rental rates are as follows:

<u>Airport Location</u>	<u>Rate Per Square Foot</u>	
	Aviation Land Uses	Auxiliary and Nonaviation Land Uses
Barrow	\$0.123	\$0.203
Bethel	0.123	0.203
Bettles (including Bettles VOR Lake)	0.043	0.040
Big Lake	0.065	0.040
Cold Bay	0.080	0.048
Cordova	0.123	0.104
Dillingham	0.123	0.099
Galena	0.080	0.052
Gulkana	0.074	0.030

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Gustavus	0.123	0.062
Haines	0.087	0.094
Homer	0.123	0.124
Iliamna	0.071	0.074
King Salmon	0.123	0.138
Kodiak	0.123	0.203
Kotzebue	0.123	0.203
Nome	0.123	0.134
Petersburg	0.123	0.198
Sitka	0.123	0.203
St. Mary's	0.095	0.054
Tok	0.068	0.032
Unalaska	0.082	0.135
Valdez	0.123	0.037
Willow	0.065	0.040
Wrangell	0.123	0.148

(5) beginning January 1, 2015, the annual rental rates are as follows:

Airport Location

Rate Per Square Foot

Aviation Land Uses

Auxiliary and

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		Nonaviation Land Uses
Barrow	\$0.123	\$0.213
Bethel	0.123	0.213
Bettles (including Bettles VOR Lake)	0.043	0.040
Big Lake	0.065	0.042
Cold Bay	0.080	0.048
Cordova	0.123	0.109
Dillingham	0.123	0.104
Galena	0.080	0.052
Gulkana	0.074	0.031
Gustavus	0.123	0.065
Haines	0.087	0.099
Homer	0.123	0.130
Iliamna	0.071	0.078
King Salmon	0.123	0.145
Kodiak	0.123	0.213
Kotzebue	0.123	0.213
Nome	0.123	0.140

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Petersburg	0.123	0.208
Sitka	0.123	0.213
St. Mary's	0.095	0.057
Tok	0.068	0.032
Unalaska	0.082	0.142
Valdez	0.123	0.039
Willow	0.065	0.042
Wrangell	0.123	0.156

(c) The following annual rental rates apply to the land at the Deadhorse Airport:

(1) beginning April 23, 2009 and ending December 31, 2009, the annual rental rates are as follows:

(A) \$0.114 per square foot for an aviation use on undeveloped land;

(B) \$0.248 per square foot for an aviation use on land with a state-owned gravel pad;

(C) \$0.137 per square foot for an auxiliary or nonaviation use on undeveloped land; and

(D) \$0.271 per square foot for an auxiliary or nonaviation use on land with a state-owned pad;



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(2) beginning January 1, 2010 and ending December 31, 2010, the annual rental rates are as follows:

- (A) \$0.114 per square foot for an aviation use on undeveloped land;
- (B) \$0.248 per square foot for an aviation use on land with a state-owned gravel pad;
- (C) \$0.148 per square foot for an auxiliary or nonaviation use on undeveloped land; and
- (D) \$0.293 per square foot for an auxiliary or nonaviation use on land with a state-owned pad;

(3) beginning January 1, 2011 and ending December 31, 2012, the annual rental rates are as follows:

- (A) \$0.119 per square foot for an aviation use on undeveloped land;
- (B) \$0.258 per square foot for an aviation use on land with a state-owned gravel pad;
- (C) \$0.160 per square foot for an auxiliary or nonaviation use on undeveloped land; and
- (D) \$0.316 per square foot for an auxiliary or nonaviation use on land with a state-owned pad;

(4) beginning January 1, 2013 and ending December 31, 2014, the annual rental rates are as follows:

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(A) \$0.123 per square foot for an aviation use on undeveloped land;

(B) \$0.268 per square foot for an aviation use on land with a state-owned gravel pad;

(C) \$0.169 per square foot for an auxiliary or nonaviation use on undeveloped land; and

(D) \$0.335 per square foot for an auxiliary or nonaviation use on land with a state-owned pad;

(5) beginning January 1, 2015, the annual rental rates are as follows:

(A) \$0.123 per square foot for an aviation use on undeveloped land;

(B) \$0.268 per square foot for an aviation use on land with a state-owned gravel pad;

(C) \$0.178 per square foot for an auxiliary or nonaviation use on undeveloped land; and

(D) \$0.352 per square foot for an auxiliary or nonaviation use on land with a state-owned pad.

(d) If the department determines in writing that any of the conditions described in this subsection apply to a premises under a lease, permit, or concession, the department will reduce the rental rate established for the premises under (a), (b), or (c) of this section by the amount indicated for each of the conditions that applies. The conditions that will

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justify a rental rate reduction under this subsection, and the rental rate reductions allowed for each condition are as follows:

(1) 10 percent, if

(A) at any location, except Deadhorse, substantial fill or excavation by the lessee, permittee, or concessionaire is necessary so that the premises may be used in the manner authorized by the department; and

(B) the department did not make fill material on the airport available at no charge to the lessee, permittee, or concessionaire;

(2) 10 percent, if no part of the premises is within 200 feet of the nearest reasonable point of connection to a public utility sewer system or to a public utility water system and that connection to a public utility sewer or water system is available within 200 feet of other premises on the airport;

(3) 10 percent, if no part of the premises is within 200 feet of the nearest reasonable point of connection to a public utility electric power distribution source and that connection to a public utility electric power distribution source is available within 200 feet of other premises on the airport;

(4) 10 percent, if no part of the premises is within 200 feet of an existing public access road;

(5) 10 percent, if the premises are aviation premises otherwise suitable for use by fixed wing aircraft, and no part of the premises is within 200 feet of a public-use runway, taxiway, or apron.

(e) A rent reduction applied to a lease, permit, or concession under (d)(1) of this section does not apply to a successive lease, permit, or concession having substantially the same premises.

(f) If within the previous three years the department has accepted an appraisal of a premises under 17 AAC 45.205(d) or 17 AAC 45.297, in place of the rental rate determined under (a) – (c) of this section, the department will charge fair market rent, as determined by the appraisal, for use of the appraised premises, unless improvements to the airport made after the appraisal have upgraded the airport to a higher type under (a) of this section. If the department enters into a successive lease or a new lease for substantially the same uses on a premises for which the fair market rental rate is established by appraisal under this subsection, the appraisal-based rate remains in effect for three years from the date that rental rate took effect, unless the department determines by a more recent appraisal that the appraisal is no longer the best estimate of fair market rent.

(g) At department-owned seaplane floats and turnaround facilities, excluding assigned space designated by the department for float-equipped aircraft under 17 AAC

45.500 - 17 AAC 45.590, the department will charge fair market rent, as determined by appraisal, for the use of land, tideland, dock frontage, and float space.

(h) In addition to the rent payable under this section for any land leased with the building, the department may establish the rent charged for use of, or use of space in, a department-owned building on an airport by

(1) performing a market survey of the rent charged by the owners of reasonably comparable property; as part of the market survey the department will collect orally or in writing, from at least three market participants at a particular airport or at one or more comparable airports or off-airport properties, information regarding current fees and rentals being paid for comparable space or privileges as of the effective date of the survey; if the market survey indicates a fair market rent

(A) of \$2,000 or less per month, the department will charge the rent determined by the market survey;

(B) in excess of \$2,000 per month, the department will establish the rent by appraisal; or

(2) prorating the department's actual or estimated costs of operating the building, plus a rate of return of not less than five percent or more than 15 percent as the department determines is reasonable for economic circumstances at the airport, to the rentable square footage in the building; for purposes of this paragraph, the department's

costs include administration, maintenance, repair, security, insurance or risk management, utilities, and capital amortization.

(i) In addition to the rental rate of any premises used, the department may charge a concession fee for the value of the department's authorization to conduct a nonaviation or auxiliary business opportunity on airport premises. Except as limited by any existing contract right, the department will require any lease or permit authorizing the sale on a department-operated airport of food and non-alcoholic beverages, alcoholic beverages, goods, or lodging to include an obligation to pay a concession fee calculated as a percentage of the gross sales of the authorized business in addition to land rent, building rent, or a business activity permit fee under this section. The concession fee on all sales of alcoholic beverages under the lease or permit is 12 percent of gross sales. The concession fees on gross combined sales of food and non-alcoholic beverages, goods, and lodging in excess of \$50,000 in a calendar year, or in excess of a proportional amount for any partial calendar year at the beginning or end of the concession, are the following percentages:

- (1) food and non-alcoholic beverages, six percent;
- (2) goods, eight percent;
- (3) lodging, five percent.

(j) The department will charge the following annual rent for the agricultural use of airport land if the department allows the use after considering airport planning,

operation, and management issues, including any potentially associated bird or wildlife hazard and other safety and security matters:

- (1) for land used only for crop cultivation purposes, \$55 per acre; and
- (2) for land used only for livestock grazing or harvesting uncultivated vegetation, excluding timber, \$5 per acre.

(k) Except where a different fee is specified in this chapter, such as for an airport boundary crossing permit fee under (l) of this section, a commercial passenger vehicle permit fee under 17 AAC 45.095(k), and a business activity permit fee under (p) of this section, the minimum charge for all rents and fees assessed under this section, including any concession fee, is

- (1) \$220 for a permit with a term of 120 days or less;
- (2) \$550 for a lease, permit, or concession with a term of 121 days to one year; and
- (3) \$550 per year for a lease, permit, or concession with a term of more than one year.

(l) Subject to (m) and (n) of this section, the department will charge and a permittee must pay each year the greater of \$150 or the applicable land rental rate for the square footage area of any right-of-way used for access across airport land between the airport boundary and a public road or aircraft operation area on the airport, plus an annual

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fee, in United States dollars, for an airport boundary crossing permit issued under  
17 AAC 45.285 based on the following schedule:

	Personal Use	Commercial Use
<u>Type of Airport</u>	<u>Permit Fee</u>	<u>Permit Fee</u>
Airport where the longest runway is under 5,000 feet long between thresholds and is		
unpaved and unlighted	\$275	\$550
unpaved and lighted	360	715
paved and unlighted	360	715
paved and lighted	415	825

Airport where the longest  
runway is 5,000 feet or  
longer between thresholds  
and is



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unpaved and unlighted	\$415	\$825
unpaved and lighted	540	1,075
paved and unlighted	540	1,075
paved and lighted	625	1,240

(m) A personal-use airport boundary crossing permit fee will be assessed under (n) of this section if the use of the boundary crossing is solely for a personal or a non-governmental not-for-profit purpose. A commercial use airport boundary crossing permit fee will be assessed if the use of the boundary crossing is for or in connection with a for-profit business activity or a government agency function.

(n) The department may perform an appraisal to determine the fee to be charged for an airport boundary crossing permit. If the fee based on an appraisal is higher than the fee charged under (l) of this section, the department will charge the annual fee for an airport boundary crossing permit based on the appraisal.

(o) A person who holds a lease, permit, or concession that authorizes operation of a commercial fueling service at an airport must pay to the department a fuel flowage fee in addition to the rent or other fee charged in the person's lease, permit, or concession. The fuel flowage fee is 2.2 cents per gallon of fuel sold, dispensed, or delivered by or on behalf of the person or otherwise under the person's authorization at the airport. The fuel

flowage fee applies only once on a gallon of fuel at an airport. Unless the lease, permit, or concession provides otherwise, the following are exempt from the fuel flowage fee:

- (1) fuel to be used exclusively for building heating;
- (2) fuel delivered to an aircraft for carriage off the airport as manifested cargo in a container not connected to the aircraft's engine;
- (3) fuel carried to an airport aboard an aircraft if off-loaded to or in a storage or transport container for use only off the airport.

(p) A person required to hold a business activity permit under 17 AAC 45.105 on an airport shall pay a non-refundable annual permit fee of \$550.

(q) An appraisal for purposes of this section must be performed by a person who is certified under AS 08.87 as a general real estate appraiser. The department may establish written instructions for the appraiser that are reasonable and consistent with generally accepted real estate appraisal practices.

(r) Unless otherwise provided in this chapter, all fees, including an application fee for a lease, permit, or concession under this chapter, are non-refundable.

(s) The department may charge an applicant, bidder, or proposer under this chapter a reasonable amount calculated to cover the cost of reproduction, printing, mailing, and distribution of relevant contract and solicitation documents.

(t) The rental rate for any portion of an area specifically designated under 17 AAC 45.020(c), 17 AAC 45.135, 17 AAC 45.140, or 17 AAC 45.145 for aviation,

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auxiliary, or nonaviation land use may not be lower than the rate applicable to the class of use for which the land is designated. The provisions of this subsection apply regardless of authorized or actual use under the lease, unless, when aviation use land is not available, the department approves aviation use for land designated for auxiliary or non-aviation use. In these circumstances, the department may charge the rental rate for aviation use even if lower than the rental rate for the designated use.

(u) For purposes of this section, “public utility” means an entity that provides sewer, water, or electrical services that are available to all persons located within the area in which those services are provided. (Eff. 3/28/2002, Register 161; am 11/23/2003, Register 168; am 3/22/2008, Register 185; em am 6/16/2008 – 10/13/2008, Register 187; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.070      AS 44.42.020  
AS 02.15.060      AS 02.15.090

17 AAC 45.260(a) and (b) are amended to read:

(a) This section applies to an assignment, other than an assignment for security purposes, of an interest in a lease, sublease, **an airport boundary crossing permit issued under 17 AAC 45.285**, or a concession. A permit issued under this chapter, **other than an airport crossing boundary permit issued under 17 AAC 45.285**, may

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not be assigned. For purposes of this section, any single or cumulative transfer of more than 50 percent interest in a joint venture, partnership, limited liability company, corporation, or other dual or multi-party entity that holds a lease, sublease, **airport boundary crossing permit**, or concession is an assignment of an interest subject to approval under this section.

(b) Unless the lease, sublease, **airport boundary crossing permit**, or concession expressly provides otherwise, a lessee, **sublessee, airport boundary crossing permittee** [SUBLEASEE], or concessionaire may not assign all or a portion of a lease, sublease, **airport boundary crossing permit**, or concession, including improvements, without the prior written consent of the department under 17 AAC 45.275. A sublessee may not assign a sublease without also obtaining the written consent of the sublessor. An assignment made contrary to the requirements of this section and 17 AAC 45.275 is void.

17 AAC 45.260(d) is amended to read:

(d) An assignment must include a provision stating that the assignee accepts responsibility for all of the assignor's obligations under the lease, sublease, **airport boundary crossing permit**, or concession, including environmental liability and responsibility.

17 AAC 45.260(f) is amended to read:

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(f) A lessee, sublessee, **airport boundary crossing permittee**, or concessionaire may request that the department informally review a proposed assignment before the assignment documents are executed. However, an assignment of a lease, sublease, **airport boundary crossing permit**, or concession is effective only if the department consents to the assignment in writing under 17 AAC 45.275 after receiving a written request submitted under (c) of this section.

17 AAC 45.260(g) is amended to read:

(g) If there is a conflict between the lease, sublease, **airport boundary crossing permit**, or concession and the assignment or its underlying documents, the lease, sublease, **airport boundary crossing permit**, or concession governs. A provision stating this priority must be included in each assignment, but is implied in all assignments whether stated or not. (Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.060      AS 02.15.090

17 AAC 45.270 is amended to read:

**17 AAC 45.270. Sublease.** (a) Unless the lease, **airport boundary crossing permit issued under 17 AAC 45.285**, or concession expressly provides otherwise, a

lessee, **airport boundary crossing permittee**, or concessionaire may not sublease all or a portion of a lease, **airport boundary crossing permit**, or concession premises without the prior written consent of the department under 17 AAC 45.275. A permit issued under this chapter, **other than an airport crossing permit issued under 17 AAC 45.285**, may not be subleased. A sublease made contrary to the requirements of this section and 17 AAC 45.275 is void.

(b) A request for consent to a sublease must be submitted in writing and must include

(1) the name, address, and telephone contact number of the proposed sublessee;

(2) a description of property to be subleased;

(3) a description of the proposed sublessee's intended use of the premises;

(4) the expiration date of the sublease;

(5) a statement of the proposed sublease rent to be paid per month of occupancy;

(6) three originals of the executed sublease documents, or in the case of a sub-sublease, four executed originals of the sub-sublease, with notarized signatures of the sublessee and the sublessor;

(7) a binder for insurance covering the operations and activities of the sublessee to the same extent that the sublessee would be required under 17 AAC 45.425

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to maintain insurance if the sublessee were a direct lessee, airport boundary crossing permittee, or concessionaire under the lease, airport boundary crossing permit, or concession;

(8) a guarantee of indemnification by the sublessee under which the sublessee provides to the state the same level of indemnity that the sublessee would provide to the state if the sublessee were a direct lessee, airport boundary crossing permittee, or concessionaire under the lease or concession; and

(9) a non-refundable \$55 sublease processing fee.

(c) Unless the department's written consent provides otherwise, a sublease is subject to all of the terms and conditions of the lease, airport boundary crossing permit, or concession governing the property being subleased and must include language to that effect. The activities of a sublessee on an airport are also subject to all applicable fees and charges established under 17 AAC 45.127, and the sublessee and the direct lessee remain jointly obligated for payment of all applicable [SUCH] fees and charges to the department.

(d) A sublessee of a lease, airport boundary crossing permit, or concession may not occupy the premises before the department consents to the sublease in writing.

(e) A sublessee must maintain the same insurance and provide the indemnity that the sublessee would be required to maintain and provide if the sublessee were a direct lessee, airport boundary crossing permittee, or concessionaire under the lease, airport

**boundary crossing permit**, or concession, as applicable. The department may waive the requirement that the sublessee maintain insurance, including the binder required under (b)(7) of this section, if the department **determines** [CONCLUDES] that the sublessee's activities on the airport are covered under the lessee's insurance to the full extent stated in this subsection or are not likely to pose more than negligible risks to the state.

(f) A sublease does not relieve a lessee, **airport boundary crossing permittee**, or concessionaire of **the** responsibility for providing the department with evidence of insurance that meets the requirements of the lease, **airport boundary crossing permit**, or concession with respect to operations on the premises, including those of the sublessee. However, if a lessee, **airport boundary crossing permittee**, or concessionaire subleases the entire premises under a sublease to which the department has given consent under 17 AAC 45.275 and the lessee, **airport boundary crossing permittee**, or concessionaire requires the sublessee to provide insurance coverage that meets the requirements of the lease, **airport boundary crossing permit**, or concession, the department will accept evidence of that insurance from the sublessee if the insurance meets the requirements of the lease, **airport boundary crossing permit**, or concession and lists the lessee, **airport boundary crossing permittee**, or concessionaire as an additional insured. The department will notify the lessee, **airport boundary crossing permittee**, or concessionaire if the evidence of insurance provided by a sublessee is insufficient, incorrect, or not timely received.



(g) The consent of the department under 17 AAC 45.275 is required for each sublease of all or any portion of a lease, **airport boundary crossing permit**, or concession, including a further sublease of a sublease for which the department's consent has already been given.

(h) Consent to a sublease by the department under 17 AAC 45.275 does not relieve or otherwise alter the obligations of the lessee, **airport boundary crossing permittee**, or concessionaire under the lease, **airport boundary crossing permit**, or concession. Any sublease provision that purports to relieve a lessee, **airport boundary crossing permittee**, or concessionaire of a responsibility to the department under a lease, **airport boundary crossing permit**, or concession, as applicable, is of no effect as to the department.

(i) A lessee, **airport boundary crossing permittee**, or concessionaire may request that the department informally review a proposed sublease before the sublease documents are executed. However, a sublease of a lease, **airport boundary crossing permit**, or concession is effective only if the department consents to the sublease in writing under 17 AAC 45.275 after receiving a written request submitted under (b) of this section.

(Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.060      AS 02.15.090

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17 AAC 45.285(k) is amended to read:

(k) A permittee may not assign or transfer an airport boundary crossing permit **unless the department has given prior written consent under 17 AAC 45.275.**

The lead-in language of 17 AAC 45.285(l) is amended to read:

(l) The permittee shall pay to the department the annual fee for an airport boundary crossing permit established under **17 AAC 45.127(l)** [17 AAC 45.127(n)]. In addition to paying the annual permit fee, the permittee shall pay

...

(Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.060      AS 02.15.090

17 AAC 45.295 is repealed and readopted to read:

**17 AAC 45.295. Rental or fee rate adjustment.** (a) Unless otherwise specified in a lease, permit, or concession and subject to (b) of this section, 17 AAC 45.297(f), and 17 AAC 45.300(e), the department will adjust the rent for a lease, permit, or concession if applying the applicable rental rate in the fee schedule established under 17 AAC 45.127 results in an increase or decrease in the rent for that lease, permit, or concession.

(b) The department will not adjust the rent for a lease, permit, or concession under (a) of this section more often than once in a twelve-month period and, except for a successive lease, will not adjust the rent for a lease, permit, or concession with a term of more than 10 years during the first five years of that term.

(c) Unless otherwise specified in a lease, permit, or concession and subject to (d) and (e) of this section, in making a rent adjustment for a premises, the department will

(1) determine the new rate applicable to the lease, permit, or concession under the fee schedule established under 17 AAC 45.127;

(2) establish the effective date of the rent adjustment; the effective date may not be earlier than 30 days after the date of the department's notice of rent adjustment under (3) of this subsection; and

(3) send to the lessee, permittee, or concessionaire a written rent adjustment notice that identifies the lease, permit, or concession that is the subject of the rent adjustment, the amount of the adjusted rent, the effective date of the adjustment, and the procedure for protesting the adjustment.

(d) Unless otherwise provided in the lease, permit, or concession, a rent adjustment under this section will not increase the rent applicable to a lease, permit, or concession by more than 10 percent per year, compounded for each year since the date the rent for that lease, permit, or concession was last set or adjusted, and will not result in rent greater than fair market rent.

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(e) A rent adjustment under this section may not be applied to a competitively awarded lease, permit, or concession for an auxiliary or nonaviation use if the adjustment would result in a reduction of the fee or rent to below the rate established by competitive bid or proposal when the lease, permit, or concession was awarded. (Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.060      AS 02.15.090

17 AAC 45.297(d) is amended to read:

(d) The protester's appraisal must be prepared in compliance with the department's instructions and with generally accepted appraisal industry practices. If the rental rate under protest **includes** [INCLUDED] a rental rate reduction by the department under **17 AAC 45.127(d)** [17 AAC 45.127(c)], the appraiser must consider in the appraisal all of the conditions listed in **17 AAC 45.127(d)** [17 AAC 45.127(c)] that are applicable to the premises. The appraiser or the protester must submit the appraiser's completed written appraisal to the department within 90 days after the date that the department mails or delivers the department's appraisal instructions to the protester, unless the department grants an extension of time for good cause shown by the protester. (Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.070      AS 02.15.200

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AS 02.15.060      AS 02.15.090

17 AAC 45.300(e) is repealed and readopted to read:

(e) If the department awards a lease, permit, or concession for a nonaviation or auxiliary use on the basis of the highest rent to be paid by the permittee or lessee, the department will charge and the lessee, permittee, or concessionaire shall pay the bid or proposed rent during the entire term of the lease, permit, or concession, as applicable. If the department awards a lease for land for an aviation use on the basis of the highest rent to be paid by the lessee, during the first 10 years of the lease term the department will charge and the lessee shall pay the bid amount or proposed rent. Beginning with the eleventh year of the lease term, the department will charge and the lessee shall pay the rate then applicable under 17 AAC 45.127 to similar property with an aviation use at the airport, subject to adjustment under 17 AAC 45.295 thereafter.

(Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.090      AS 02.15.210

AS 02.15.060

17 AAC 45.303(a) is amended to read:

(a) If the department makes a lease, permit, or concession available by sealed bid, the department will provide public notice of the invitation to bid in accordance with 17 AAC 45.400 and provide a copy of the bid documents to each person who has paid an application fee under 17 AAC 45.205(a) for an application relating to the property or rights being made available, and to each person who requests a copy and pays the amount charged for the copy under **17 AAC 45.127(s)** [17 AAC 45.127(v)]. The bid documents will state the requirements and instructions for submitting a bid.

17 AAC 45.303(c) is amended to read:

(c) The department will make the bid documents, including a sample copy of the lease, permit, or concession to be awarded, available to the public at least 30 days before the last date set for submitting bids. The department may charge an amount set under **17 AAC 45.127(s)** [17 AAC 45.127(v)] for a copy of the bid documents.

(Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.070      AS 02.15.090

AS 02.15.060

17 AAC 45.333(a) is amended to read:

(a) If the department makes a lease, permit, or concession available by public auction, the department will give public notice of the auction in accordance with 17 AAC

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45.400 and provide a copy of the auction documents to each person who has paid an application fee under 17 AAC 45.205(a) for an application relating to the property or rights being made available, and to each person who requests a copy and pays any amount charged for the copy under 17 AAC 45.127(s) [17 AAC 45.127(v)]. The auction documents will state the requirements and instructions for participating in the auction.

17 AAC 45.333(c) is amended to read:

(c) The department will make the auction documents, including a sample copy of the lease, permit, or concession to be awarded, available to the public at least 30 days before the time set for the auction. The department may charge a fee set under 17 AAC 45.127(s) [17 AAC 45.127(v)] for a copy of the auction documents.

(Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.070      AS 02.15.090

AS 02.15.060

17 AAC 45.354(a) is amended to read:

(a) If the department makes a lease, permit, or concession available by competitive proposal, the department will give public notice of the request for proposals in accordance with 17 AAC 45.400 and provide a copy of the proposal documents to each

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person who has paid an application fee under 17 AAC 45.205(a) for an application relating to the property or rights being made available, and to each person who requests a copy and pays any amount charged for the proposal documents under 17 AAC 45.127(s) [17 AAC 45.127(v)]. The proposal documents will state the requirements and instructions for submitting a proposal.

17 AAC 45.354(c) is amended to read:

(c) The department will make the proposal documents, including a sample copy of the lease, permit, or concession to be awarded, available to the public at least 30 days before the last date and time set for submission of proposals. The proposal documents will include the weighting value or numerical system to be applied to each evaluation factor. The department may charge an amount set under 17 AAC 45.127(s) [17 AAC 45.127(v)] for a copy of the proposal documents.

(Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.070      AS 02.15.090  
AS 02.15.060

17 AAC 45.920(c) is amended to read:



(c) The commissioner must receive an appeal of a decision on a protest of a matter under 17 AAC 45.210, [17 AAC 45.215,] 17 AAC 45.285, 17 AAC 45.300 – 17 AAC 45.399, or 17 AAC 45.710 within seven calendar days after the date described in (b) [(b)(1) - (3)] of this section, as applicable. The commissioner will dismiss an appeal if the commissioner determines in writing that

- (1) the appeal was not timely submitted under (b) of this section;
- (2) the department did not cause the delay; and
- (3) there is no other equitable reason to extend the time to appeal.

(Eff. 3/28/2002, Register 161; am 3/22/2008, Register 185; am 4/23/2009, Register 190)

**Authority:** AS 02.15.020      AS 02.15.090      AS 02.15.220  
AS 02.15.060      AS 02.15.200

This document is intended as an informational guide only. The regulations contained in this document were excerpted from the official code on file with the Lt. Governor. There may be errors or omissions that have not been identified and changed that occurred since this document was updated. To be certain of the current laws, please refer to the official code.